

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

SMDK CORP.,

Plaintiff,

V.

CREATIVE LABS, INC.,

CREATIVE TECHNOLOGY LTD.,

COBY ELECTRONICS CORP.,

EPSON AMERICA, INC.,

SEIKO EPSON CORP.,

SEIKO CORP.,

TIC COMPUTER INC., D/B/A

WOLVERINE DATA,

VOSONIC TECHNOLOGY CORP.,

PHISON CORP.,

THOMSON, D/B/A RCA BY THOMSON

and

AUDIOVOX CORP.,

Defendants.

MOTION TO DISMISS SEIKO CORP.

Plaintiff SMDK Corp. (“SMDK”), pursuant to Rule 41(a)(1)(i) of the Federal Rules of Civil Procedure, hereby dismisses Defendant Seiko Corp. (“Seiko”) from this action, this Motion being filed before service by said Defendant of any motion or responsive pleading.

WHEREFORE, SMDK respectfully prays that the Court grant this Motion to Dismiss and enter an order dismissing all claims between SMDK and Seiko without prejudice.

Dated: April 2, 2008

Respectfully submitted,

/s/ Sam Baxter
Sam Baxter, Lead Attorney

TX State Bar No. 01938000
Theodore Stevenson, III
TX State Bar No. 19196650
William E. Davis, III
TX State Bar No. 24047416

MCKOOL SMITH, P.C.
P.O. Box O
Marshall, Texas 75671
Telephone: (903) 923-9000
Facsimile: (903) 923-9099
sbaxter@mckoolsmith.com
tstevenson@mckoolsmith.com
wdavis@mckoolsmith.com

**ATTORNEYS FOR PLAINTIFF,
SMDK CORP.**

Of Counsel:
John F. Ward
John W. Olivo, Jr.
David M. Hill

WARD & OLIVO
380 Madison Avenue
New York, New York 10017
Telephone: (212) 697-6262
Facsimile: (212) 972-5866
wardj@wardolivo.com
olivoj@wardolivo.com
hilld@wardolivo.com

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who have consented to electronic service on this the 2nd day of April, 2008.

/s/ Sam Baxter